

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:14-CV-844-FL

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) ORDER
)
DOROTHY M. WISE and EDDIE F.)
WISE,)
)
Defendants.)
)
)

This matter comes now before the court on defendants' new motion urging hearing on their motion to stay, (DE 19), wherein they requested opportunity to conduct discovery, as supported by affidavit, (DE 18), in defense against plaintiff's substantive motion, (DE 13), directed against their counterclaims.¹ (DE 29). Defendants contend they did not receive notice of hearing before the magistrate judge on their motion to stay, and later-filed motion for time extension, (DE 25), directed towards plaintiff's motion for summary judgment on foreclosure and sale. (DE 22).

While it is difficult to believe that defendants did not receive notice of hearing, where no mail was returned to the clerk's office, the defendants' correct address was used, and these defendants have a history of employing delaying tactics, the court **AMENDS** the magistrate judge's order, (DE 28), and positions this case as follows:

¹ Defendants seek also to include the Secretary of the United States Department of Agriculture ("USDA") as a counterclaim defendant, together with various USDA employees.

1. The court **SEPARATES** plaintiff's motion to dismiss directed against the counterclaims, (DE 13), from its alternative part, that is the motion for summary judgment, announcing here it will first take up and decide the motion to dismiss.
2. Defendants have until **May 21, 2015**, within which to respond to that motion to dismiss. Plaintiff may reply. Briefing, however, is **STAYED** on plaintiff's alternative motion for summary judgment. Therefore, no response need be made by defendants to that alternative motion at this time.
3. Defendants have until **May 12, 2015**, within which to respond to plaintiff's complaint, where no proper answer is of record. Should no response timely be made, their default will be entered.
4. Defendants have until **May 12, 2015**, to propose the type and nature of discovery necessary to be undertaken, narrowed to the main action and any attempted defense to the motion for summary judgment on foreclosure and sale. (DE 22).
5. Plaintiff shall have **10 days** to respond to that report.
6. Thereafter, the court will make such other and further rulings in aid to the just, speedy, and inexpensive determination of the action, Fed.R.Civ.Pro. 1, including any discovery scheduling order.
7. Briefing is **STAYED** on plaintiff's motion for summary judgment on foreclosure and sale, (DE 22), pending the court's determination of any limited discovery schedule. Therefore, no response need be made by defendants to that motion at this time.
8. Defendants' motion for hearing, (DE 29), is **DENIED** as **MOOT**.

SO ORDERED, this the 21st day of April, 2015.



LOUISE W. FLANAGAN
United States District Judge